Gokak falls are justified in declaring bonus for the year 1968 at 4 per cent of the qualified wage bill and the workmen of the II-party are not entitled to any higher quantum of bonus for the year 1968 and the Award is passed accordingly.

No Order as to costs,

(Sd)/-)

G. S. BHAGWAT.
Presiding Officer.
Additional Industrial Tribunal, Bangalore.

"True Copy"

G. S. BHAGWAT,
Presiding Officer,
Additional Industrial Tribunal, Bangalore.

ORDER

Bangalore, dated 12th September 1974

S.O. 2558—

WHEREAS by State Government Order Nos. FCL 674 LLD 69 and FCL 277 LLE 70, dated 1st September 1969 and 23rd August 1971, the Industrial Dispute between the workmen and the management of Gokak Mills, (P) Ltd., Gokak Falls, was referred to the Additional Industrial Tribunal, Bangalore for adjudication.

AND WHEREAS the Additional Industrial Tribunal Bangalore has submitted to the State Government its award in respect of the said Industrial Dispute.

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Karnataka are pleased to direct the publication of the said award as above, in the *Karnataka Gazette*.

[No. SWL 193 LLA 74.]

By Order and in the name of the Governor of Karnataka,

K. MYLARAPPA,
Under Secretary to Government,
Social Welfare and Labour Department.

GOVERNMENT OF KARNATAKA

Social Welfare and Labour Department

Labour Dispute: Idustrial Dispute between the workmen and the management of Malligehithlu Estate, Ballupet, Hassan District.

Award of the Presiding Officer, Labour Court, Mangalore—Published.

Read the following papers;

(1) Letter No. ID. 42/72, dated 8th October 1974, from Shri H. S. Venkatasubbaiah, Presiding Officer, Labour Court, Mangalore.

BEFORE THE LABOUR COURT AT MANGALORE

Dated 8th October 1974.

Reference (ID) (LCH) No. 42 of 1972 (7/70) (22/68).

Present:

H. S. Venkatasubbaiah, B.A., LL.B., Presiding Officer.

Between:

I Party

The workmen, represented by the Secretary, Inter-District Plantation Workers Union, Saklespur, Hassan District.

and

II Party

The Management of Malligehithlu Estate, Ballupet Post, Hassan District.

AWARD

The Government of Karnataka being of the opinion that an Industrial Dispute exists between the workmen and the management of M/s. Malligehithlu Estate, Ballupet Post, Hassan District, have referred the same for adjudication to the Labour Court, Bangalore by their Order No. FCL 883 LLD 67, dated 1st March 1968 under Section 10 (1) (c) of the Industrial Disputes Act, 1947. The said dispute was transferred to the Labour Court at Hassan as per G.O. No. FCL 82 LLE 69, dated 18th November 1969. The points of dispute as specified in the order of reference are the following:—

"Whether the management of Malligehithlu Estate, Ballupet Post, Hassan District is justified in refusing the work to (1) Sri Siddappa, (2) Sri Mahadevappa, (3) Smt. Mallamma, (4) Smt. Ningamma, (5) Smt. Dharmamma, (6) Smt. Thejamma, (7) Smt. Siddamma and (8) Smt. Jackamma with effect from 19th April 1967, without getting their annual accounts settled for the year 1966-67? If so what relief if any the workmen are entitled to?"

2. The claim statement filed by the first party before the Labour Court, Bangalore, was to the effect that 8 workmen mentioned in the points of dispute had put in 12 to 20 years of service in the II Party estate and the II Party had dismissed Sri Siddappa and 8 others from 19th April 1967 without assigning any reason and that the II party had refused work to Smt. Ningamma from 3rd March 1967 and that Smt. Dejamma had been refused work from 19th April 1967 and after that she had suffered untold difficulties and died on 26th September 1967 and that she had put in a service of more than 20 years. It is further stated that when Sri Siddappa and 7 others worked with the II party prior to 19th April 1967 men were paid weekly advance of Rs. 8 and women Rs. 6 and from April 1966 to 18th April 1967 the balance of salary was due and

that the prevailing salary to men was Rs. 2 and to women Rs. 1-60 and the second party had given only at the rate of Rs. 8 and Rs. 6 per week and the balance had been deprived to workers by the II Party who had refused work to them from 19th April 1967 and that the reasons for stopping work to the above workers from 3rd March 1967 and 19th April 1967 was illegal, one sided and far from the Rules and Act. It is prayed that the second party be directed to reinstate the workers with back wages, loss of pay arrears and compensation.

3. The objection statement filed by the II Party before the Labocr Court at Hassan, was to the effect that the first party workers had worked only for about 10 to 12 years and that Ningamma was not an estate worker and she was only a domestic servant. Further it was contended that the workers settled their claims with the II party and voluntarily left the service and that they were not dismissed without any reason and that Ningamma had discontinued to come and work in the house of the II party and Thejamma died after she left the service of the II party and after settlement of all her claims and that the second party had paid the wages according to the rates at which they were entitled and no balance was due to any of the workers and that the second party has not committed any illegal or one-sided act. The II Party prayed that the reference be rejected.

4. The following additional issues were framed on 2nd February 1972 :—

1. Whether the accounts for 1966-67 were not settled in respect of claimants ?

2. Whether the services of 8 workers were terminated as pleaded and were they refused work ?

3. Whether they voluntarily left the work after settlement of their claims ?

4. Whether Ningamma was only a domestic servant and discontinued to work by herself ?

5. To what relief, if any, are applicants entitled to?

5. The above dispute was received in this court on transfer as per Government Order No. FCL 162 (2) LLE 72, dated 26th August 1972 and was registered as I.D. (LCM) No. 42 of 1972.

6. On behalf of the I Party Smt. Ningamma and Smt. Subbamma have been examined as W.W. 1 and W.W. 2 respectively. On behalf of the II party Sri B. B. Nanjappa and Basavegowda have been examined as M.W. 1 and M.W. 2 respectively. On 4th October 1974 both the representatives filed a Joint Memo stating to the effect that the claim of the I Party workman Smt. Ningamma may be dismissed. It is also stated that the second party has, out of compassion, paid a sum of Rs. 230 to the said worker although she was working as a domestic worker under the II Party. The case was closed for both the parties. Arguments were heard.

7. The reference relates to refusal of work to Sri Siddappa, Sri Mahadevappa, Smt. Mallamma, Smt. Ningamma, Smt. Dharmamma, Smt. Thejamma, Smt. Siddamma and Smt. Jackamma. Of them only Smt. Ningamma has been examined. One Subbamma has been examined on behalf of the first party workmen, Subbamma, W.W. 2 claims to be one of the first party workmen. But her name is not mentioned in the reference. Therefore, her case cannot be considered in this reference. According to the evidence of W.W. 2 she was working as an estate coolie under the second party for about 7½ years and that she was being paid Rs. 1-40 as wages per day and that about 7 years ago the second party refused work because she had joined the union of the first party. It has been put to her that she was not working as an estate coolie of the second party. B. B. Nanjappa, M.W. 1 has in his evidence, stated to the effect that W.W. 2 Subbamma was not working in his estate at any time and that no reference

has been made with regard to her that she was not entitled to any relief. Of course the second party has not produced the various registers called for by the first party. M.W.1 s evidence was to the effect that those registers are not with him and that his wife had sold them to old paper hawkers and that he came to know of it after he received the notice. In view of the fact that there is no reference of the name of W.W. 2 Subbamma in the reference, it must be held that even if she were working under the second party and even if she has been refused work, this court cannot adjudicate upon the same. Hence the evidence of W.W. 2 cannot be considered at all and no relief can be given to her in this reference.

8. So far as W.W. 1 Ninga mma is concerned, it was the case of the management that she was not an estate worker and that she was only a domestic servant. No doubt W.W. 1 has been examined and she sworn to the effect that she was working as an estate coolie and she had denied the suggestion that he was working as a domestic servant. On the other hand M.W. 1 and M.W. 2 have sworn to the effect that she was working only as a domestic servant of the second party. Excepting her own interested testmony and that of Subbamma W.W. 2 who is not a party to this reference and whose evidence cannot be relied on as it has been suggested to her that she was not working as an estate coolie under the second party, there is no other evidence. So I have to hold that it has not been proved that she was working as an estate coolie under the second party. Ningamma has also not pressed her claim as she was not able to prove her case as per the Joint Memo filed by the parties. The management has paid her Rs. 230 and she has received that sum on the ground that she was working as a domestic worker and the same was paid to her out of compassion. In view of the Joint Memo filed by the parties. I have to hold that Ningamma does not press her claim and her claim has to be rejected and it must be held also that she was not work-

ing as a coolie under the second party, but was only a domestic servant.

9. So far as the other workers referred to in the reference are concernd, they have not been examined by the first party. There is no evidence to show that the second party management refused to give them work. On the other hand, the evidence of B. B. Nanjappa, M. W. 1 goes to show that Dharmamma had received Rs. 236-10 and executed Ex. M-1 on 13th August 1968 and left the services on that very date and that Thejamma was dead by 13th August 1968 and her husband received Rs. 255-64 which was due to her and executed Ex. M-2 and that the first party workman Jackamma received Rs. 187-11 on that very day and left the services after executing Ex. M-3 on the very same day and that Mallamma received Rs. 282-05 on 28th July 1970 and executed Ex. M-4 and day after she left the services and that first party workman Siddappa received Rs. 356-85 on 27th July 1970 and that he had already left the services himself and he executed Ex. M 5 and the first party workman Mahadevappa received Rs. 361 on 27th July 1970 and executed Ex. M-6 and that by that time he had already left the services long back. There is no reason why the evidence of the second party should not be believed in that regard as M.W. 1's evidence goes unchallenged. He has produced the receipts alleged to have been executed by the said persons. In view of the evidence of the second party and in view of the fact that the said workmen have not even stepped into the witness box to prove their case, it must be held that they had left the services of the second party of their own accord and that the second party had not refused them work. Hence their claim has to be rejected.

10. For all the reasons stated above, my findings on the additional issues are as follows :—

(1) The accounts for 1966-67 were settled in respect of the claimants.

(2) The services of 8 workers were not terminated and they were not refused work as pleaded.

(3) They voluntarily left the work after settlement of their claims.

(4) Ningamma was only a domestic servant and discontinued to work by herself.

(5) The workers are not entitled to any relief in this reference.

11. In view of my findings on the additional issues the reference is liable to be rejected. Accordingly, the reference is rejected. In the circumstances of the case, the parties are directed to bear their respective costs.

Mangalore,

Dated : 8-10-1974.

H. S. VENKATASUBBAIAH,
Presiding Officer,
Labour Court, Mangalore.